IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2814 of 1996

To

FIRST APPEAL No. 2822 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)
Versus
UJIBEN KHODABHAI,GUARDIAN OF MINOR PRABHABEN - Defendant(s)

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Appearance :

MR SATYAM CHHAYA, AGP for Appellant(s) : 1,
MR VG DAVE for MR YOGESH S LAKHANI for Defendant(s) : 1, 1.2.1, 1.2.2,1.2.3
MR MEHUL S SHAH for Defendant(s) : 1,
MR SURESH M SHAH for Defendant(s) : 1,
MR AR THACKER for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 01/05/2007

ORAL JUDGMENT

1. The short facts of the case appear to be that the proposal was moved for acquisition of various lands at Jetpur for construction of link road N.H. 8-B to Jetpur-Junagadh LH 31. It appears that notification under Section 4 of the Land Acquisition Act (hereinafter referred to as “the Act”) was published on 24.4.1986. The notification under Section 6 of the Act was published on 14.8.1986. After following the necessary procedure under the Act an award was passed on 8.8.1988. The Claimants were not satisfied with the compensation order passed by the Land Acquisition Officer and, therefore, the demand was made of the higher amount, which ultimately came to be referred to the Reference Court for adjudication. The Reference Court, after adjudication, found that Rs.45/- per sq. mtrs., would be the valuation of the land and further found that the deduction is required to be made of 1/3rd amount i.e. 33% in additional amount of compensation and, therefore, by taking the base of Rs.45/- per sq. mtrs., minus the

amount as already awarded by the L.A.O., the difference was arrived at from Rs.33/- to Rs.37/- for the respective lands and the Reference Court further observed that the 1/3rd amount of the additional compensation would be required to be deduced and the remaining amount was ordered to be paid as additional compensation together with the statutory benefits under Section 23(1A) and 23(2) of the Act and also the interest at the rate of 9% for the first year and 15% for the remaining year. It is under these circumstances, the present appeals before this Court by the State.

2. I have heard the learned Counsel appearing for both the sides. The record and proceedings is also considered and Mr.Chhaya, learned AGP, during the course of the hearing, for ready reference of the Court, has made available the map/sketch L.R. No.133/1987 to the Court for perusal.

3. It appears that the lands in question were

bearing Survey No.130, 131/1, 177, 134/1, 149 and 111 of Jetpur. This Court had an occasion to consider the matter for compensation qua the other lands situated at Jetpur bearing Survey No.12, 18, 16 and 13 in the proceedings of F.A. Nos.2442/1996 to No.2445/1996 in the matter of “State of Gujarat v. Patel Bai Nanduben Jiva”. In the said First Appeals, the notification under Section 4 of the Act was published on 12.11.1981 and this Court, for the concerned Survey numbers, concluded that the compensation should be of Rs.40/- per sq. mtrs., for the land located interior to the highway and Rs.48/- per sq. mtrs., for the land nearby highway. It is not in dispute that the lands in the present cases are interior to those lands, but the only additional aspect is that they are nearby the approach road, which is proposed to be constructed. Keeping in view the aforesaid decision of this Court for fixing the amount of compensation of Rs.48/- per sq. mtrs., for the land situated nearby highway and Rs.40/- per sq. mtrs., for the land interior to highway, in

respect of which the notification under Section 4 of the Act was published on the year 1981, it cannot be said that the fixation of the amount of compensation by the Reference Court in the impugned judgement is unjust or unreasonable, since the deduction is, in any case, made by the Reference Court after assessing the valuation at Rs.45/- per sq. mtrs., in the difference of the compensation, i.e. additional amount of compensation. It also deserves to be recorded that for the acquisition in the present case, the notification under Section 4 of the Act was published in the year 1986, roughly after a period of five years and, therefore, if the location is considered, it is much interior, but if the appreciation is added, the compensation awarded by the Reference Court appears to be just and proper.

4. No further discussion may be required in view of the circumstances for basing the consideration by this Court in its judgement dated 29.3.2007 in First Appeal No.2442 of 1996 and others.

5. The other benefits as awarded by the Reference Court are in accordance with the Scheme of the Act and the same also appears to be just and proper.

6. In the result, the appeals fail. Therefore, they are dismissed. Decree accordingly.

1.5.2007 **(Jayant Patel, J.)**

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